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PENDING CLAIMS AS AMENDED

1. (Original) An apparatus comprising:
 - means for encoding a first set of data symbols to provide a first set of encoded symbols and a second set of encoded symbols;
 - means for transmitting the first set of encoded symbols in a first frame;
 - means for encoding a second set of data symbols to provide a third set of encoded symbols;
 - means for determining whether the first frame failed to decode;
 - means for determining a minimum retransmission power level for the second set of encoded symbols if the first frame failed to decode; and
 - means for transmitting the second set of encoded symbols and the third set of encoded symbols in a second frame if the first frame failed to decode.
2. (Original) The apparatus of claim 1, wherein the means for determining the minimum retransmission power level for the second set of encoded symbols comprises a power control loop.
3. (Original) The apparatus of claim 1, wherein the means for encoding the first set of data symbols comprises a first channel encoder to provide the first set of encoded symbols in a first code channel and a second channel encoder to provide the second set of encoded symbols in a second code channel.
4. (Original) The apparatus of claim 1, wherein the means for encoding the first set of data symbols comprises a convolutional encoder.
5. (Original) The apparatus of claim 1, wherein the third set of encoded symbols has a code rate different from that of the second set of encoded symbols.

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6. (Original) The apparatus of claim 1, wherein the means for determining whether the first frame failed to decode comprises means for receiving a non-acknowledgement (NACK) message;

7. (Original) The apparatus of claim 1, wherein the second set of encoded symbols is transmitted at an energy value greater than that of the first set of encoded symbols.

8. (Original) The apparatus of claim 1, wherein the second set of encoded symbols is transmitted at an energy value less than that of the third set of encoded symbols.

9. (Original) A computer readable medium embodying a method of data transmission, the method comprising:

encoding a first set of data symbols to provide a first set of encoded symbols and a second set of encoded symbols;

transmitting the first set of encoded symbols in a first frame;

encoding a second set of data symbols to provide a third set of encoded symbols;

determining whether the first frame failed to decode;

determining a minimum retransmission power level for the second set of encoded symbols if the first frame failed to decode; and

transmitting the second set of encoded symbols and the third set of encoded symbols in a second frame if the first frame failed to decode.

10. (Original) The computer readable medium of claim 9, wherein the minimum retransmission power level for the second set of encoded symbols is determined by a power control loop.

11. (Original) The computer readable medium of claim 9, wherein the first set of data symbols is encoded by a first channel encoder to provide the first set of encoded symbols in a first code channel and by a second channel encoder to provide the second set of encoded symbols in a second code channel.

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12. (Original) The computer readable medium of claim 9, wherein the first set of data symbols is encoded by a convolutional encoder.

13. (Original) The computer readable medium of claim 9, wherein the third set of encoded symbols has a code rate different from that of the second set of encoded symbols.

14. (Original) The computer readable medium of claim 9, wherein the step of determining whether the first frame failed to decode comprises receiving a non-acknowledgement (NACK) message.

15. (Original) The computer readable medium of claim 9, wherein the second set of encoded symbols is transmitted at an energy value greater than that of the first set of encoded symbols.

16. (Original) The computer readable medium of claim 9, wherein the second set of encoded symbols is transmitted at an energy value less than that of the third set of encoded symbols.